

Attachment 7
William J. Constantine, Attorney

303 Potrero Street, Building # 29, Suite 106
Santa Cruz, California 95060

(831) 420-1238

Fax: (831) 480-5934

E-mail: wconstantinesantacruz@gmail.com

November 6, 2013

Sent via Hand Delivery and E-mail

Division Manager Nancy Orton
San Luis Obispo County Planning Dept.
976 Osos Street, Room 300
San Luis Obispo, CA 93408

Re: Proposed conversion of Mesa Dunes Estates Manufactured Home Park, Arroyo Grande, to a resident owned condominium subdivision.

Permit Application Number: SUB 2013-00031

Dear Ms. Orton and Staff:

The Mesa Dunes Homeowners' Association (the Association) has retained my office to represent them in responding to the proposed conversion of Mesa Dunes Manufactured Home Park in Arroyo Grande (the Park), particularly, to respond to the above referenced subdivision tentative map application, your permit number SUB 2013-00031 (the Application). In that regard, I have now reviewed the Application that was filed with the County on October 24, 2013. Previously, on September 3, 2013, I sent to the County a detailed critique of the manner in which that Application was being pursued by the Park owner, which explained why it was, undoubtedly, going to be filed in the manner that would render it incomplete for the reasons set out in my September 3, 2013 - letter. In that regard, the Application that the Park owner has now filed on October 24, 2013 has not rectified any of the deficiencies outlined in my September 3, 2013 - letter, so the Application is not complete and should be deemed incomplete and not accepted by the County for the reasons set out in that letter, which will be updated below.

I. Introduction and Summary of the Inadequacies That Render the Application Submitted on October 24, 2013 As Incomplete.

In summary, my September 3, 2013 - letter set out three, now fatal, separate and independent reasons why the Application is incomplete: **1.** That the "Resident Survey of Support" results submitted with the application were not obtained through a resident support survey ballot conducted under the required agreement with an independent resident homeowners' association (i.e., with my clients the Association), as is required by subsection (d)(2) of Government Code Section 66427.5¹, the statute that controls this manner of mobilehome park subdivision conversions. (*See* pp. 4 through 7 of my September 3, 2013 - letter) **2.** That the "Resident Survey of Support" results submitted with the Application were not obtained through a "written ballot" as required by subdivision(d)(3) of Section 66427.5 (*See* pp.

¹ Unless otherwise stated, all "Section" citations are to the California Government Code.

Attachment 7

Division Manager Nancy Orton
San Luis Obispo County Planning Dept.
November 6, 2013
page no. 2

7 through 9 of my September 3, 2013 letter) and 3. That the Application must also be rejected as being incomplete because the park owner has not provided any information demonstrating that the proposed conversion is consistent with the County of San Luis Obispo's Housing Element as required by the recent California Supreme Court *Pacific Palisades* decision and the Fourth Appellate District's *Dunex* decision (See pp. 9 through 14 of my September 3, 2013 letter).

The Application, as filed on October 24, 2013, did not rectify any of the above inadequacies. I will not repeat those arguments again here and, instead, I refer you to the above listed page citations of my September 3, 2013 - letter, which fully explain the inadequacies of the Application and why it is now incomplete because none of those inadequacies have been corrected

However, I will provide supplemental information on the Association's offer of its cooperation to the Park owner to obtain the Park owner's compliance with those provisions (i.e., by conducting a new support survey through a "written ballot"); the Park owner's refusal to take up that offer and the inadequacies of the reasons that the Park owner has offered for not complying.

In that regard, on July 26, 2013, my office sent a letter to the Park owner's attorney, Richard Close, warning that the "Survey of Residents" - questionnaire style survey that his firm had conducted was unlawful because it was not done under an agreement for conducting it with the Association as required by Section 66427.5(d)(2) and that it was not undertaken through a "written ballot" as required by Section 66427.5(d)(3). My letter also offered the Association's cooperation in undertaking a new resident support survey, through a written ballot, that would comply with those subsections. A copy of my July 26, 2013 - letter is attached and it explains all of the reasons why the Park owner's "Survey of Residents" fails to comply with these two requirements. Accordingly, rather than repeating those reasons here, I refer you to my July 26, 2013 - letter and I will discuss, below, why the Park owner's subsequent excuses for not complying with those sections, and for not accepting the Association's offer to cooperate in conducting a new resident support ballot, simply hold no water.

II. The Application Must Be Rejected as Being Incomplete Because the "Survey Results" filed with it Were Not Obtained through a Resident Support Survey Ballot Conducted Under an Agreement with the Mesa Dunes Homeowners' Association as required by Government Code Sections 66427.5(d)(2).

Both my September 3, 2013 letter to the County and my July 26, 2013 - letter to Mr. Close complain that the Park Owner's Application is incomplete and cannot be processed because it does not contain the results of the required "survey of support of the residents for the proposed conversion," which were obtained under an agreement with the Mesa Dunes Homeowners' Association as required by subsections (d)(2) and (d)(3) of Section 66427.5:

Division Manager Nancy Orton
San Luis Obispo County Planning Dept.
November 6, 2013
page no. 3

“66427.5 At the time of filing a tentative or parcel map for a subdivision to be created from the conversion of a rental mobilehome park to resident ownership, the subdivider shall avoid the economic displacement of all nonpurchasing residents in the following manner:

///

(d)(2)The survey of support shall be **conducted in accordance with an agreement between the subdivider and a resident homeowners' association**, if any, that is independent of the subdivider or mobilehome park owner.

Although, the statute requires, and in prior conversions in which I have been involved Mr. Close's firm has always obtained, a written agreement with a park's independent resident homeowners association for conducting the resident support survey [pursuant to Section 66427.5 (d)(2)], the Park owner did not obtain that written agreement, here. (See para 2. of p.6 of my September 3, 2013 - letter to the County and para. 3 of p. 1 of my July 26, 2013 - letter to Mr. Close)

On September 4, 2013, Mr. Close sent me a response to my July 26, 2013 - letter. (Copy enclosed). However, it does not respond directly to my complaint that the required agreement was **not in writing**. Instead, it appears to attempt to do so by falsely claiming that the Association's vice president, Jerry Schmidt, on June 13, 2013, agreed to schedule a meeting, for June 18, 2013 between the Association's Board and himself and his paralegal, Susy Forbath, to discuss and verbally approve of his client's proposed "Survey of Residents." (*He then accuses me and the president of the Association, Sharon McMahan, of "inventing untruths" for disagreeing with his version of the facts*). [See paras. 4 to 6 of p. 2 of September 4, 2013 - Close to Constantine letter]. The problem with Mr. Close's claim is that Jerry Schmidt (*and four of the other Board members, together, comprising five of the seven Board members who attended the June 18, 2013 - meeting*) seriously disagree with Mr. Close's statement of what occurred.

In that regard, and in response to a reading Mr. Close's above claim, Jerry Smith has submitted a letter that states that "That is not true;" that Jerry did speak with Ms. Forbath on June 13, but that he "did not agree with her on that date, or at any time prior to June 17, to schedule a meeting for the 18th." [See para 3 of p. 1 of October 2, 2013 - Gerald Smith letter]. Jerry Schmidt then states he "also did not arrange for the board members to attend the meeting at that time" and that the truth is that he "was not informed by Ms. Forbath that the meeting was to be about the survey until June 17, 2013," (*i.e., the night before the June 18, 2013- meeting*) [Id. at para. 4 of p. 1]. Jerry Schmidt then stated that, on the night of June 17, 2013, both he and the Association's president, Sharon McMahan, protested that being forced to attend the meeting the next day, on June 18, 2013, did not give them sufficient time to call a meeting of the Board and to educate themselves about the conversion but that "Ms. Forbath misled us into believing that we had no choice" so, with less than a day's notice, they got as many board members as they "could to meet with her the next day." [Id. at para. 1 of p 2] The Association's president, Sharon McMahan, along other board members, have also submitted letters confirming that Jerry

Attachment 7

Division Manager Nancy Orton
San Luis Obispo County Planning Dept.
November 6, 2013
page no. 4

Schmidt's, and my July 26, 2013 - letter's version of the facts of what had occurred are accurate, rather than Mr. Close's version. [See para. 4 of p. 1 of Danielle letter; para. 4 of p. 1 of Maggio letter; and para. 3 of p. 1 through para 1 of p. 2 of McMahan letter]

Mr. Close's September 4, 2013 - response letter then appears to argue, again without actually directly addressing the requirement of a **written agreement**, that his law firm complied with Section 66427.5(d)(2) by obtaining a "show of hands vote on its approval of the survey" of the Association's Board of Directors during the June 18, 2013 - meeting; that "every member of the Board voted to approve the survey, except Sharon McMahan;" and that "because she lost that vote, Ms McMahan has had hired you (*i.e., me*) to claim that the vote never happened." [See para. 6 on p. 1 of September 4, 2013 - Close to Constantine letter.]

Mr. Close's claim, however, is not supported by the Board members who attended that meeting. In that regard, Board President Sharon McMahan, Board Vice President, Gerald Smith and Board members Dennis Farrell, Danny Danielle and Gail Maggio comprise five of the seven Board members present at that meeting and all state that rather than Ms. McMahan losing that vote that the vote did not take place. See attached letters from McMahan, Smith, Farrell, Danielle and Maggio

First, all five of these letters state that they never held a "show of hands" vote to approve a resident support survey (*i.e., or to approve the required "survey agreement" controlling the contents of the survey ballot and how the balloting was to be conducted*)) because it was not made clear to them that they were "voting" to approve such an "agreement" for that type of a survey, as so required by Section 66427.5(d); that no member on the Board made a motion, nor seconded such a motion, to conduct such a vote of the Board to approve such an agreement and that their Board's Bylaws would be require those formal procedures to be followed (*for the obvious reasons that are now presented here*) prior to such an important vote to approve such an important agreement. [See para. 4 of p. 2 of Danielle letter; para. 3 of p. 2 of Farrell letter; para. 5 of p. 2 of Maggio letter; para. 4 of p. 2 of McMahan letter's; and para. 5 of p. 2 of Schmidt letter.]

Second, all five letters also state that the Park owner's representative (Mr. Close's paralegal, Susy Forbath) never showed them a "written ballot" for conducting the resident support balloting, that she, instead, informed them that the "Survey of Residents" - questionnaire style survey, which she had them review, was "just an informational survey" and a "formality" that "did not mean anything" rather than accurately describing it as a "written ballot" that would likely determine whether the proposed conversion would be approved by the County or not. [See para. 5 of p. 1 to para. 6 of p. 2 of Danielle letter; para. 3 of p. 1 to para. 4 of p.2 of Farrell letter; para. 5 of p. 1 to para. 7 of p. 2 of Maggio letter; para 4 of p. 2 of McMahan letter; and paras. 2 to 4 of p. 2 of Schmidt letter.]

Instead of accurately describing the importance of the survey as a "written ballot," Ms.

Attachment 7

Division Manager Nancy Orton
San Luis Obispo County Planning Dept.
November 6, 2013
page no. 5

Forbath repeatedly downplayed its importance to the Board by continuously describing it as a mere formality that was required by the state; that “people could respond if they wanted to as it was not expected that everyone would send it in;” that they usually got a very “low response rate” and that the purpose of the survey was only so that it could be used simply to determine “if people needed financial assistance” so they could determine “who needed to be helped out.” [For example, see para. 5 of p. 1 to para. 2 of page 2 of Maggio letter.]

Mr. Close, then attempts to justify his firm’s failure to obtain the required written agreement for conducting the resident support survey’s balloting, by claiming that a written agreement was not needed since his paralegal subsequently then sent the Board’s president a thank you - letter, dated June 21, 2013, for discussing and approving the “proposed resident survey,” which he describes as a confirming letter.[See para. 4 of p. 2 of September 4, 2013 - Close to Constantine letter.]

However, Ms. Forbath’s June 21, 2013 - letter, also never mentioned that it was confirming that they had entered into the resident support survey balloting agreement required by Section 66427.5(d)(2) nor does it describe the “Survey of Residents” - questionnaire style - survey that they reviewed as the “written ballot” required by Section 66427.5(d)(3). [See June 21, 2013 - Forbath to McMahan - letter and the “Survey of Residents” - questionnaire style survey attached to it, which was filed with the County by the Park owner as part of the Park owner’s October 24, 2013 - Application.]

Mr. Close then attempts to further legitimize their survey by claiming that it is legitimate simply because “all nine Board members submitted their survey responses” (para 2. of p. 1 of September 4, 2013 - Close letter) and that no Board member protested Ms. Forbath’s June 21, 2013 - confirming letter to Ms McMahan (para 4. of p. 2 of September 4, 2013 - Close letter). However, all five Board members all state that they sent in their survey responses, and did not protest the survey, because none of them were “informed by Ms. Forbath or anyone else from her law firm or from Park management” that they had been asked to approve of an actual “agreement” for conducting the written balloting required by Section 66427.5 and that, when they returned their surveys, that they were actually voting in that balloting and that they did not learn that this was so, *(or of their rights under Section 66427.5 to have a say in the wording of the written ballots and the conduct of the balloting)* until several weeks after the survey had already been conducted.[See para. 2 of p. 3 of Danielle letter; paras. 3 and 4 of p. 3 of Farrell letter; paras. 1 to 3 of p. 3 of Maggio letter; paras. 3 to 7 of p. 2 of McMahan letter’s; and para. 2 of p. 3 of Schmidt letter.]

Only one former board member, Lara Castaneda *(who was subsequently hired to by the Park owner to work in the Park office and then made her statement after she began that employment)* claims that Susy Forbath referred to the survey as “a ballot;” explained that the Board had a choice in its contents and permitted the Board to take a sample of the ballot back

Division Manager Nancy Orton
San Luis Obispo County Planning Dept.
November 6, 2013
page no. 6

with them. However, when shown her letter, all five of the other Board members state that Ms Castaneda's claims are not true because the Board was never shown a "ballot" but, instead, simply shown a "Survey of Residents," which was **not** identified as a "ballot" but simply described as a "formality that did not mean anything;" that the Board was **not** told that they could use a different "Ballot" and that Ms. Forbath, at Mr. Close's direction, refused to allow Ms. McMahan, and the rest of the Board, to keep the copies of the survey that had been shown to them to review rather than offering any of them a copy of it to keep and review. [See para. 3 of p. 3 of Danielle letter; paras. 2 to 3 of p. 3 and para. 1 of p. 4 of Farrell letter; para. 8 of p. 2 to para 1 of p.3 and para. 3 of p. 3 of Maggio letter; paras. 5 to 6 of p. 2 of McMahan letter's; and paras. 1 and 3 of p. 3 of Schmidt letter.]

After considering the actual requirements of subsections (d)(2) and (d)(3) of Section 66427.5 for conducting the resident support survey balloting, the manner in which the Park owner's questionnaire style - survey was actually conducted, Mr. Close's, refuted above, attempted justifications for conducting it in that manner, and the detailed letters of five of the seven Board members who attended the June 18, 2013 - meeting with Mr. Close and Ms. Forbath, it is clear that the Park owner never made a serious attempt to comply with those provisions of section 66427.5(d) and that he never obtained the agreement of the Association's Board that his attorney claims that he had.

Instead, it is clear that the Park owner's intent was to mislead the Board into giving the appearance of a verbal approval for the resident support balloting, while railroading through their survey so quickly that no member of the Board, nor any of the other residents of the Park, would know what they were doing when they responded to the questionnaire style - survey. Rather than producing a legitimate agreement from the Association for conducting the resident support balloting, it merely presents the paradigm circumstances of why the statute requires a park owner to enter into an agreement with a park's independent resident homeowners association for conducting the balloting: to prevent this type of trickery and deceit from occurring.

For all the above reasons, and for the other reasons that were articulated in both my September 4, 2013 - letter to the County and my July 26, 2013 - letter to Mr. Close, the Park owner clearly did not obtain the required "**agreement between the subdivider and a resident homeowners' association**", if any, that is independent of the subdivider or mobilehome park owner" for conducting the resident support balloting that is required by Section 66427.5(d)(2). Accordingly, the survey results submitted with, the October 24, 2013 - Application are invalid, and the Application must be deemed to be incomplete for its failure to be accompanied by such balloting results and by an agreement with the resident homeowners association for conducting the balloting, which are required by Section 66427.5(d).

Division Manager Nancy Orton
San Luis Obispo County Planning Dept.
November 6, 2013
page no. 7

III. The Application Must Be Deemed to Be Incomplete For the Additional and Independent Reason that the Survey Results Accompanying the Application Were also Not Obtained Through a “Written Ballot” as Required by Government Code Section 66427.5(d)(3), Thereby, Rendering the Application Incomplete.

Mr. Close's September 4, 2013 - response letter to my July 26, 2013 - letter did not respond to my complaint that the resident support survey was not done through a **“written ballot,”** as required by Section 66427.5(d)(3), so I refer you to pages 4 through 6 of my July 26, 2013 - letter to Mr. Close, which explains six separate reasons why the “Survey of Residents” - questionnaire that the Park owner used conduct the resident support survey dose not meet Section 66427.5(d)(3)'s requirement that it be conducted through a written ballot and also why it was deceitful and confusing. I also refer you to pages 7 through 9 of my September 3, 2013 - letter to the County, which further explains why the Park owner's “Survey of Residents” questionnaire style survey does not comply with Section 66427.5(d)(3)'s requirements. Since Mr. Close did not reply to these complaints, they now speak strongly for themselves and I will, therefore, refer you to those arguments rather than repeating them here.

However, now, the results of the “Survey of Residents” questionnaire style - survey have been submitted with the October 24, 2013 - Application. Worth noting, is that even though the “Survey of Residents” questionnaire style - survey was entitled “Survey of Residents” and was conducted in the form of a multiple-choice and fill in the blank informational/ questionnaire style - survey, its results were reported as “Conversion to Resident Ownership - Resident Survey of Support,” as if it had actually conducted as a resident support ballot, which, as explained above, it had not.

The residents responding to that questionnaire style - survey did not know that they were participating in a Resident Survey of Support - written ballot because, for the reasons explained above, in my September 3, 2013 - letter to the County and in my July 26, 2013 - letter to the Park owner's attorney, the survey questionnaire and the manner in which it was conducted intentionally misled the residents into believing that it was merely an informational questionnaire “that did not mean anything.”

In that regard, the Survey of Residents results page submitted with the Application now reports that 61 residents chose the questionnaire's selections numbers 1 and 3, that they “supported the conversion” and 38 residents chose selection number 2 that they support the conversion but “would need financial assistance” to purchase their units, which it then totaled as 99 support votes. It then reported 34 residents selected questionnaire selection 4 “decline to respond at this time” and 35 chose questionnaire selection 5, that they did not support the change of ownership of the Park. So the Survey of Residents results reported that 59% of those responding voted to support the conversion, which is only 33% of the Park's total population of 299 households.

Division Manager Nancy Orton
San Luis Obispo County Planning Dept.
November 6, 2013
page no. 8

However, the Association has now collected signed statements from 42 of the residents who had selected choices that were reported as part of the 99 “Resident support” votes, which state that their “survey choice was obtained by fraud” since the cover letter accompanying the survey questionnaire fraudulently informed them that its results were “merely a preliminary indicator of interest” and that, by selecting the questionnaire’s choices, they would not be “committing myself to any decision with respect to change of ownership.” [*See* statements from 42 residents who selected support choices 1, 2 and 3 of the questionnaire’s selections]². These residents also state that they were only given “one week” to learn about the conversion and only given the opportunity to “hear our Park owner’s representatives promotional presentation on the conversion” and “had not been given any real time to obtain or consider any opposing views.” *Id.* Those 42 residents then ask the County to insist that a new legitimate resident support survey be conducted by written ballot or that their votes be counted as an “unequivocal votes against the conversion.”

Likewise, the Association has also collected the similar statements from all 34 homeowners who chose the Park owner’s survey’s “decline to respond at this time” and they also ask that a new vote be conducted or that their “decline to respond at this time” choices be counted as “unequivocal votes against the conversion.” [*See* statements from 34 residents who selected support the “Decline to Respond at This Time - questionnaire selection]. Finally the Association has also collected similar statements from 56 other homeowners who state that they boycotted the Park owner’s survey because its cover letter stated that it did not matter and, now that they have been informed otherwise, they also ask that a new vote be conducted or that their choices to boycott the survey be counted as “unequivocal votes against the conversion” since they were induced to boycott the survey by the Park owner’s representation that the results of the survey would not matter. [*See* statements from 56 residents who intentionally boycotted the survey because the Park owner’s representations led them into believing that it did not matter.]

The fact that only 168 out of the Park’s 299 households responded to the Park owner’s “survey of residents” - questionnaire style - survey and that now, a total of 166 residents either originally selected the choice of opposing conversion the survey or now want their support choices, or their decision to boycott the survey, changed to opposition votes (*since they state that their choices were obtained by the Park owner’s fraudulent representations to the homeowners that there survey choices did not matter*) makes it is even more clear that the Park owner’s “Survey of Residents,” was certainly not conducted as, or understood to be, a “written ballot” of resident support as required by Section 66427.5(d)(3).

For this reason, and for the reasons stated both in my September 3, 2013 - letter to the

² Copies of these “Resident Statements” are being provided with the hard copy - hand delivered copy of this letter but not with the e-mailed electronic copy.

Division Manager Nancy Orton
San Luis Obispo County Planning Dept.
November 6, 2013
page no. 9

County and my July 26, 2013 - letter to the Park owner's attorney, the October 24, 2013 - Application should be deemed to be incomplete for the additional independent reason that it was **not** accompanied by resident support survey results, which were obtained through "written ballot" as required by Section 66427.5(d)(3).

IV. The Application must Be Rejected as Being Incomplete for the Third Additional Independent Reason That the Park Owner Has Not Provided Any Information Demonstrating That the Proposed Conversion Is Consistent with the County of San Luis Obispo's Housing Element as Required by the Recent California Supreme Court's *Pacific Palisades* Decision and Fourth Appellate District of California's *Dunex* Decision.

As already pointed out in my September 3, 2013 - letter to the County, in *Pacific Palisades Bowl Mobile Estates, LLC v. City of Los Angeles* (2012) 55 Cal.4th 783, the California Supreme Court [and, subsequently, also, the Fourth District Court of Appeal in *Dunex v City of Oceanside, Fourth Appellate District, Division One D061579 (filed 8/13/13)*] held that, during the conversion of a rental mobilehome park to a resident owned subdivision, in addition to meeting the requirements of Government Code Section 66427.5 (which they both described as only controlling the specific requirements that a local jurisdiction could mandate to avoid the economic displacement of the current non-purchasing residents of a park) that the park owners also had to comply with California's statutes that are, instead, intended to preserve their low-income housing supplies (i.e., California's Housing Element Law or the Mello Act, depending upon if the park was located in the coastal zone or elsewhere in the State) because the two sets of statutes had different purposes, which did not conflict with each other.

My September 3, 2013 - letter then explained why the County is now required to enforce California's Housing Element Law, under these two decisions, by determining whether or not the proposed conversion is consistent with the County's Housing Element and that, to do so, the Park owner would have to demonstrate to the County that the post conversion lot prices will not result in the loss of lots in the Park from the County's current low and moderate income housing stock. Rather than repeating that analysis here, I refer the County to pages 9 through 15 of my September 3, 2013 - letter to the County on that issue.

The Park owner has now submitted a Tenant Impact Report (TIR) with the October 24, 2013 - Application, but neither in it, nor anywhere else in the Application, is there any information from which the County can determine whether or not the post-conversion lot prices will result in the mobile home/ lot combinations continuing to be affordable. In that regard, the TIR only states that "lot values will be determined by a MAI licensed appraiser using nationally recognized standards." [See No.13(f) on p 9 of TIR]. It does not, however, disclose the likely price range of the lots. The TIR then also states that "Lower income residents are protected for their entire tenancy" under Section 66427.5(f). [See No.10.2(a) on p 9 of TIR]. However, that assurance is illusory since it fails to recognize that both the *Pacific Palisades* and *Dunex* decisions held that those protections are only temporary since they only apply to the Park's

Attachment 7

Division Manager Nancy Orton
San Luis Obispo County Planning Dept.
November 6, 2013
page no. 10

current residents rather than preserving the Park's low and moderate income housing supply after those residents move out. In that regard, the TIR acknowledges that these low income rent protections, as well as Section 66427.5(f)'s much weaker moderate income rent protections, are only temporary because they end when those homeowners sell their homes since the TIR also states as a "Purchase Impact" that future purchasers of the low or moderate income homeowners' homes in the Park cannot assume their rent control protections but, instead, "will be required to purchase their lot as well." [See No.14 on p 9 of TIR].

As pointed out in my September 3, 2013 - letter to the County, the County's General Plan's Housing Element's **Objective HE 2.0** and **Policy HE 2** have adopted an important objective and policy to "**Preserve the County's stock of mobilehome parks.**" since "**Mobilehome parks provide much of the County supply of affordable housing**, consisting of approximately 2,600 mobile home spaces and 40 mobile home parks." Under the case law cited in my September 3, 2013 - letter, the County is required to deem this Application as incomplete because it lacks any information that could be used to determine whether or not the permanent post-conversion lot prices will reduce the County's supply of affordable housing located in its mobile home parks by potentially eliminating the 300 spaces in Mesa Dunes from that supply and, thereby, be inconsistent with Objective HE 2.0 and Policy HE 2.

The Park owner's October 18, 2013 - cover letter, accompanying his TIR, attempts to cover up this short coming by citing the First District Court of Appeal's *Sequoia* decision, which held that local ordinances were preempted from requiring information not required by Section 66427.5. However, both the *Pacific Palisades* and the *Dunex* decisions were issued after that *Sequoia* decision and made the distinction that the Mello Act and California's Housing Element Law were not affected by *Sequoia*'s preemption - ruling because they are state statutes, **not** local ordinances, to which *Sequoia*'s preemption ruling does not apply. Those two courts then held that these statutes were also not "superseded" by the provisions of Section 66427.5. [See pages 9 through 15 of my September 3, 2013 - letter to the County, which discusses this issue].

Since the Objective HE 2 and Policy HE 2 are provisions of the County's Housing Element, **which are mandated by California's Housing Element Law**, they are also not preempted, and they must be enforced under California's Housing Element Law and subdivision laws.

In that regard, since they are an Objective and a Policy of the County's General Plan (*i.e., since the County's Housing Element is a mandatory component of the County's General Plan*), Government Code Section 66473.5 makes it clear that Mesa Dune's current subdivision tentative map Application cannot be approved unless it is found to be "**consistent**" with these two "**objectives and policies**" of the County's General Plan:

"No local agency shall approve a tentative map, or a parcel map for which a

Attachment 7

Division Manager Nancy Orton
San Luis Obispo County Planning Dept.
November 6, 2013
page no. 11

tentative map was not required, **unless the legislative body finds that the proposed subdivision**, together with the provisions for its design and improvement, **is consistent with the general plan** required by Article 5 (commencing with Section 65300) of Chapter 3 of Division 1, or any specific plan adopted pursuant to Article 8 (commencing with Section 65450) of Chapter 3 of Division 1.

A proposed subdivision shall be consistent with a general plan or a specific plan only if the local agency has officially adopted such a plan and the proposed subdivision or land use is compatible with the objectives, policies, general land uses, and programs specified in such a plan.” See Government Code Section 66473.5

Since Government Code Section 66473.5's requirement is mandatory that “**no local agency shall approve a tentative map**”... “**unless the legislative body finds that the proposed subdivision is consistent with the general plan**” by demonstrating that it is “**compatible with the objectives and policies**” of the plan and since, here, the Application fails to provide the necessary information to demonstrate whether or not the proposed conversion will be compatible with **Goal HE -2** and **Policy HE -2** of the County's Housing Element, the Application must be deemed to be incomplete for this third additional and independent reason.

V. CONCLUSION.

All three of the above reasons are each an independent and separate reason that the Park owner's Application is incomplete and should not be processed until the lacking information is provided. Accordingly, the Association, respectfully, requests that the Planning Department finds the Application to be incomplete and does not further process it until the Park owner submits a new Application that is in compliance with the above provisions of both Sections 66427.5(d)(2) and (d)(3) and with the County's Housing Element.

Sincerely,

William J Constantine

**Letters, Which Are Referenced by
November 6, 2013 - Letter from William J Constantine to Nancy Orton,
San Luis Obispo Planning Department
Re: SUB- 2013-00031**

- 1. July 26, 2013 - Constantine to Richard Close letter and proposed Resident Support Survey Ballot and proposed Resident Support Survey Balloting Agreement**
- 2. September 4, 2013 - Richard Close to Constantine letter.**
- 3. September 24, 2013 - Danny Danielle to SLO County Planning Commission letter**
- 4. September 27, 2013 - Dennis Farrell to SLO County Planning Commission letter**
- 5. September 30, 2013 - Gail Maggio to SLO County Planning Commission letter**
- 6. August 28, 2013 - Sharon McMahan to SLO County Planning Department letter**
- 7. October 2, 2013 - Gerald Schmidt to SLO County Planning Commission letter**

William J. Constantine, Attorney

303 Potrero Street, Building # 29, Suite 106
Santa Cruz, California 95060

(831) 420-1238

Fax: (831) 480-5934

E-mail: wconstantinesantaacruz@gmail.com

July 26, 2013

Richard Close, Esq.
Gilechrist & Rutter
Wilshire Palisades Building
1299 Ocean Ave. Suite 900
Santa Monica, CA 90401 – 1000

Sent via US Mail & fax (faxed to 310-393-4700)

Re: Proposed conversion of Mesa Dunes Estates Manufactured Home Park, Arroyo Grande, to a resident owned condominium subdivision.

Dear Mr. Close:

The Mesa Dunes Homeowners' Association (the Association) has retained my office to represent them in responding to your client's proposed conversion of Mesa Dunes Manufactured Home Park in Arroyo Grande (the Park).

Your law firm recently attempted to conduct a resident support survey ballot at Mesa Dunes without first entering into the resident support survey balloting agreement, required by subsections (d)(2) and (d)(3) of Government Code Section 66427.5¹, with my clients, the Association, which controls how you must conduct that survey and the contents of the "written ballot" that you are required to use:

"(d)(2) The survey of support shall be conducted in accordance with an agreement between the subdivider and a resident homeowners' association, if any, that is independent of the subdivider or mobilehome park owner.

(3) The survey shall be obtained pursuant to a written ballot."

Instead of first contacting the Association to negotiate the required resident support survey balloting agreement, your law firm prepared your client's own survey ballot and on June 10, 2013 sent a notice to all of the residents of the Park requiring them to attend one of two meetings held seven days later, on June 17, 2013, if they wanted information on the proposed conversion. At the June 17, 2013- meeting, your firm's paralegal, Susy Forbath, promoted the conversion and told the residents that your client's resident support balloting would be immediately conducted in another seven days to begin on the following Monday, June 24, 2013, and that she would be meeting with the Association's Board the next day, June 18, 2013, to explain the survey to them, even though the

Richard Close, Esq., Gilchrist & Rutter

July 26, 2013

page no. 2

Association's Board had not agreed to meet with her and had no knowledge of the contents of your client's planned resident support ballot or the procedures that would be used for conducting the balloting.

During her presentations at the two June 17, 2013 residents' meetings, Ms. Forbath further misled the residents by telling them that the "support survey doesn't mean anything" and "was just a formality," even though she clearly knew that, under either the *Chino MHC* or the *Goldstone* decisions, her statement was certainly not true and that the results of the balloting would determine whether or not the conversion would go forward.

Near the end of those meetings, Ms. Forbath approached the President of the Association, Sharon McMahan, and, for the first time, told her that the Association's Board was required to meet with her on the very next day, on June 18, 2013, if they wanted to see the ballots that your firm would be sending out on June 24, 2013. Ms. McMahan objected that they needed more time to properly call a Board meeting, to study the issue and to obtain legal advice. Ms. Forbath responded by telling her that they had to meet with her the next day because she "did not want to make another trip to Arroyo Grande" and that you had to "get this part of the conversion process completed immediately." Accordingly, Ms. Forbath misled the Association's Board into believing that they had to attend this meeting without providing them with any advance notice, any time to seek legal advice to help them evaluate the proposed ballots or to inform them of their rights under Section 66427.5 and without even providing them with a sample copy of the ballots to evaluate before your June 18, 2013 - meeting with them. Thus, they were misled and coerced into coming to the June 18, 2013 - meeting with your law firm both uninformed and unrepresented.

Then at your firm's June 18, 2013 - meeting with the Association's Board, you sat in the back of the room and supervised Ms. Forbath as she distributed samples of the survey ballot which your firm had prepared without first obtaining the required resident support agreement with the Association. She then told them that it was the ballot that would be sent out six days later on the following Monday without informing them that your client was first required to enter into a resident support survey balloting agreement with them that would control both the contents of the ballots and the procedures for conducting the balloting. One Board member did complain that the text of the "disclaimer paragraph" located on the bottom of both of the pages of the survey ballots was too small for any of them to read and Ms. Forbath replied that you would make it larger without informing them that your client was required to get their approval for the entire ballot. At the end of the meeting, Ms. Forbath then refused to allow Ms. McMahan keep a sample copy of the ballot to review and told her that one would be sent to her later. Ms. McMahan and the Association then did not receive that sample copy of the survey ballot until June 21, 2013, which was only three days before your office started the balloting on June 24, 2013.

Richard Close, Esq., Gilchrist & Rutter

July 26, 2013

page no. 3

On June 24, 2013, your firm then sent out the ballots with a cover letter that falsely claimed that the "form and conduct of the survey has been approved by the Board of Directors of the Mesa Dunes Homeowners Association" when it had not since your firm had never obtained the required resident support survey balloting agreement from them and they were never told that they had the right to negotiate a different survey ballot or different balloting procedures.

The above clearly represents a carefully orchestrated scheme that was intended to deprive the Association of any opportunity of obtaining the assistance legal counsel to help them review the ballots, advise them on balloting process and on their rights under Section 66427.5(d) and was also intended to deprive them of the any real input into the contents of the ballots or the balloting procedures rather than being an legitimate attempt to comply with the requirements of Section 66427.5(d)(2).

Accordingly, the balloting conducted by your law firm is unlawful as it clearly does not meet the requirements of section 66427.5(d)(2) and its results are invalid. Because of that, the Association must unfortunately demand that your client throw away the results of that balloting and negotiate a legitimate resident support survey balloting agreement and survey ballot with them.

In that regard, I am enclosing a proposed Survey Ballot and a Survey Balloting Agreement that are based on the similar Survey Ballot and Survey Balloting Agreement that your firm agreed to use in both the Alimur Manufactured Home Park (Santa Cruz County) and the Palo Mobile Estates Manufactured Home Park (East Palo Alto) proposed conversions. During those conversions, your firm attempted to use survey ballots that were substantially similar to the ones that you sent out at Mesa Dunes and their residents also rightfully objected to them and then the enclosed Survey Ballot and Survey Balloting Agreement were agreed to as a compromise. Accordingly, rather than arguing over the same points again it is more reasonable to simply use the same Survey Ballot and Survey Balloting Agreement that were twice before negotiated.

The reason that the Association must insist on this is that it strongly objects to the current ballots, and balloting procedures, that your firm used at Mesa Dunes for the following reasons:

1. As explained above, your firm's ballot was produced without any real input or approval from the Association and produced and distributed unlawfully without the Resident Support Survey Balloting Agreement with the Association that is required by Section 66427.5(d)(2).
2. Your below disclaimer that is provided and in capital letters at the bottom of both pages of your survey is inaccurate and very deceiving:

Richard Close, Esq., Gilchrist & Rutter

July 26, 2013

page no. 4

"BY PROVIDING THE INFORMATION REQUESTED IN THIS SURVEY, YOU ARE NOT COMMITTING YOURSELF TO ANY DECISION WITH RESPECT TO THE CHANGE IN OWNERSHIP, INCLUDING, WITHOUT LIMITATION, WHETHER YOU WANT TO RENT OR TO PURCHASE. IF THERE IS A CHANGE IN THE FORM OF OWNERSHIP OF MESA DUNES MOBILEHOME ESTATES."

Your disclaimer is inaccurate and deceiving for several reasons. First, the residents are not merely providing "information requested" In truth, they are casting a "ballot" that will irrevocably determine whether or not the "ownership" of the "Park" is going to be changed from a park owned by your client, which is under local rent control, to a subdivided park, in which the homeowners will have to purchase their lots at undisclosed lot prices that will be determined solely by your client's appraiser under an appraisal method solely selected by your client and your client's appraiser, which in past conversions, that your firm has undertaken, has completely transferred the "in-place value" of residents manufactured homes into the lot value and forced them to purchase it back. Accordingly, the residents are clearly "making a decision with respect to change of ownership."

Second, this statement is also deceiving by not fully explaining the actual impact that a choice to support the conversion will have on their ability to retain their investment in their homes if they "want to rent" after the conversion. In that regard, although it is true that low income residents can continue to "rent," rather than purchasing their lot, then, subsequently, when they later attempt to sell their home the buyer of their home will be required to purchase their lot and, if the price of the lot is so high that it was not "affordable" to the low income homeowner casting their vote then it is also likely to be so highly priced that the person purchasing their home will be unable to afford to purchase the lot and still be able to pay the homeowner a high enough price for their home to compensate the homeowner for their substantial investment in their home. In fact, this backdoor transfer of the homeowners' substantial investments in their homes to the price of the lots is often the reason park owners pursue these "park owner driven" conversions, and it is accomplished through the appraisal method that I referred to above that your law firm has used in past conversions, such as at the El Dorado conversion in Palm Springs.

3. Your resident support - choices numbered "2" and "3" are confusing and deceitful. Your choice number "2" confuses residents into believing that, if they select it, they will be entitled to receive sufficient low-income financing for them to purchase their lots even though that financing might not be sufficiently available to allow all of them to do so. It also does not explain to them that their choice will be counted as an unequivocal support vote even if sufficient low income financing turns out to be not

Richard Close, Esq., Gilchrist & Rutter

July 26, 2013

page no. 5

available to enable them to purchase their lot. It also does not disclose that if a sufficient number of homeowners select that option that the conversion will be irrevocable approved even if sufficient low income financing turns out to be unavailable to enable all of the homeowners who selected that choice to purchase their lots. Many homeowners will also believe that they must select that choice to qualify for low-income financing. Likewise, your choice number "3" is inaccurate because it does not fully explain to the residents that if the conversion is approved and they are not low income then they may not be able to afford to "remain and rent" if they end up not being able to afford the four-year rent increase to uncontrolled rents allowed by Section 66427.5(1)(2).

4. Your "support" choices 1, 2, and 3 are all selected by simply checking their boxes and the voting residents are not required to also provide a written explanation of why they selected those choices. However, your "do not support" choice, number 5, requires the voting resident to provide a written explanation of why they do not support the change of ownership. That requirement is likely to have the effect of intimidating residents from selection your survey's "do not support" choice. In that regard, Section 66427.5(d)(4) clearly states that the resident support survey is to be conducted as a "written ballot." In such ballots the voters must be free to choose any of the ballot choices without having to provide a written justification for their choice.

5. The June 24, 2013 - cover letter sent with the ballots, under your firm's letterhead, is also deceiving since it falsely claims that "The survey results will merely provide a preliminary indicator of interest" and that "By providing the information requested in this Survey, you are not committing yourself to any decision with respect to the change of ownership." Those statements are clearly not true and they are deceitful because they do not explain that the residents are actually participating in a "ballot" that will result in the irrevocable approval of the conversion and "change in ownership" if a sufficient number of residents vote your choices 1, 2 and 3.

6. Survey question number 3 on page 2 of your ballots asks the residents to provide demographic information. That information is not required to be obtained in the "written ballot" required by Section 66427.5(d)(4) and it is inappropriate to be included in Section 66427.5(d)'s resident support ballots because it gives the false impression that the residents are merely participating in a survey that is simply gathering information and is an indicator of interest rather than the truth, which is that they are actually participating in a "ballot" that will result in the irrevocable approval of the conversion if a sufficient number of residents choose your choices 1, 2 and 3. In that regard, the Association has no objection to your client obtaining that demographic information that you seek on page 2 of your ballots but it must be obtained in a separate subsequent survey, which the Association will agree to encourage its members to respond to. However, that demographic information

Attachment 7

Richard Close, Esq., Gilchrist & Rutter

July 26, 2013

page no. 6

cannot be obtained through Section 66427.5's resident support ballots for the above reason.

For all the above reasons, the resident support balloting that your firm attempted to conduct is unlawful and its results must be ignored. However, the Association is now very willing to enter into the enclosed "Resident Support Survey Balloting Agreement," which then will utilize the enclosed "Resident Support Survey Ballot" for conducting a new and legitimate resident support ballot. The Association is also willing to cooperate and urge its members to participate in an additional subsequent demographic survey to provide your client with the information that your client seeks on page 2 of your ballots but this must be done in a separate survey that is independent from the proposed resident support balloting.

The Association and I are hopeful that your client will see the wisdom of abandoning the current unlawful ballots and we look forward to cooperating with your client and your firm in negotiating a legitimate resident support survey balloting agreement and resident support ballot, which would comply with the requirements of Section 66427.5(d).

Please feel free to contact me if you wish to discuss this matter or need more information.

Yours truly,



William J. Constantine

cc: clients

enclosures: Proposed Resident Support Survey Ballot Agreement
Proposed Resident Support Ballot

MESA DUNES MOBILEHOME ESTATES

RESIDENT SUPPORT SURVEY BALLOTING AGREEMENT

- 1. Survey Ballot:** The attached Survey Ballot is the form that shall be used for distribution to the resident households of Mesa Dunes Mobilehome Estates Mobilehome Park (the Homeowners) pursuant to this Agreement between the Mesa Dunes Homeowners' Association, Inc. (the Association) and the Park Owner. This Survey Ballot shall be revised before distribution to the Homeowners only for the purpose of inserting the "Deadline Date" as discussed in Paragraph 3, below. No other information shall be included in the Ballot Packets.
- 2. Distribution Date:** The Park Owner shall distribute the Ballot Surveys in a manner that guarantees that they will reach the qualified Homeowners by the next day after the distribution date. No other information either promoting or opposing the conversion shall be included in the ballot packets. The Park Owner shall provide the Association with a complete list of the names and addresses of all Homeowners who are entitled to participate in the Survey Balloting upon executing this agreement (the Homeowner List). The distribution date shall be no sooner than the later of 14 days from the date of the last signature on this agreement or the date that the Homeowner List is provided to the Association. Upon distribution, the Park owner shall provide the Association with a signed, under penalty of perjury, proof of service form attesting that the homeowners listed in the Homeowners List have been served with the Ballot Surveys at their addresses previously listed by the Park owner on that List.
- 3. Return Deadline:** The date that will be inserted in the Survey Ballot to create the Deadline Date for the postmark on the return mailing of the Survey Ballot is 14 days after the Distribution Date as discussed above.
- 4. Return of Completed Survey Ballots:** The Homeowners shall mail the completed Survey Ballots independent third-party to be selected. The Ballot packets shall contain stamped envelopes addressed to independent third-party to be selected, and containing each resident household's return address along with the blank Survey Ballots to the Homeowners.
- 5. Tabulation, Inspection and Submittal:** independent third-party to be selected will count the surveys and provide the counsels for the Association and the Park Owner with the results and with copies of the completed Survey Ballots after the count is tabulated. After the results and Survey Ballot copies are provided to the counsels, independent third-party to be selected will then file the survey results with the planning department of the County of San Luis Obispo and, thereby, it will be considered filed with the County as part of the anticipated conversion application to be filed by the Park Owner and in compliance with the provisions of Government Code section 66427.5 that require it to be submitted to the County as part of the application's required submittals.

Date: _____

Date: _____

On Behalf of Mesa Dunes Homeowners'
Association, Inc.

On Behalf of the Park Owner of Mesa Dunes
Mobilehomes Estates

Print Name

Print Name

MESA DUNES MOBILEHOME ESTATES

CA Gov't Code § 66427.5(d)(1) SURVEY OF RESIDENTS

The owner of Mesa Dunes Mobilehome Estates (the Park) will be filing an application with the County of San Luis Obispo to convert the Park to a resident owned condominium subdivision. California Government Code §66427.5(d)(5) requires the park owner to submit to the County a survey of resident support for the conversion, obtained through the enclosed written ballot.

Each occupied mobilehome space in the Park is entitled to one vote in this survey. Accordingly, the below ballot is being provided to your household to cast its vote in either support of or in opposition to the proposed conversion. Please fill out your enclosed ballot and return it in the enclosed envelope addressed to Independent Third Party such as CPA firm to be selected, that contains your space number written on its outside. Your ballot must be post marked by [FINAL DATE TO BE CONFIRMED WITH MAILING DATE] to be included in the final ballot results.

Your vote is extremely important and both your resident homeowners' association and the park owner strongly urge you to cast your written ballot in this survey either in support of or in opposition to the proposed conversion. For more information you may wish to contact both of the following for an explanation of their views on the conversion and its impact on you:

Resident homeowners' association representatives: _____

Park owner representative: _____

Survey Ballot

1. ☐ I support the park owner's current proposed conversion of Mesa Dunes Mobilehome Estates to a resident owned condominium-subdivision park.

2. ☐ I oppose the park owner's current proposed conversion of Mesa Dunes Mobilehome Estates to a resident owned condominium-subdivision park.

BALLOT MUST BE SIGNED BELOW IN ORDER TO BE COUNTED.

Date: _____

Signature: _____

Print Name: _____

Park Address: _____

Space #: _____

Day Tele: _____

Attachment 7

LAW OFFICES
GILCHRIST & RUTTER
PROFESSIONAL CORPORATION

WILSHIRE PALISADES BUILDING
1298 OCEAN AVENUE, SUITE 900
SANTA MONICA, CALIFORNIA 90401-1000

TELEPHONE (310) 393-4000
FACSIMILE (310) 394-4700
E-MAIL: rclose@gilchristutter.com

September 4, 2013

VIA E-MAIL AND U.S. MAIL

William J. Constantine, Esq.
303 Potrero Street, Bldg. #29, Suite 106
Santa Cruz, CA 95060

Re: Mesa Dunes Conversion

Dear Mr. Constantine:

This letter responds to yours of July 26, 2013. Your letter was shockingly inaccurate in its recitation of events, events which you did not participate in.

You falsely state that the Resident Survey was conducted without the Homeowners' Association Board of Directors' approval. This outrageous claim is easily refuted by witnesses, documents and subsequent events. In fact, all nine Board members submitted their survey responses. None of them ever objected that the survey was being taken without their agreement.

Ms. Forbath and I both attended a meeting with the Board on June 18th. The explicit purpose of the meeting was to obtain the Board's revisions and approval of the survey form and process.

Proposed survey forms were provided to every Board member. The Board went through the proposed survey line by line, with discussion. The Board required a single revision only, that the font size be increased on a small-print disclaimer at the bottom of each page, and approved the survey with that revision.

The Board additionally discussed the survey process, when the surveys should be distributed and how long residents would have to return the surveys before they would be counted. The Board and Ms. Forbath discussed what specific date the survey should be sent out because of the approaching Fourth of July holiday, and the Board decided the survey should be sent out before residents might leave town for the holiday. The Board also asked that a "drop box" be placed in the management office for any residents who might prefer to leave their survey there.

The Board held a "show of hands" vote on its approval of the survey. Every member of the Board voted to approve the survey, except Sharon McMahon. (Presumably, because she lost that vote, Ms. McMahon has had you hired to claim that vote never happened.) Ms. Forbath

William J. Constantine, Esq.
September 4, 2013
Page 2

specifically asked the Board if a necessary quorum was present for that vote, and the Board informed her it was.

At no point did any member of the Board ask to seek legal advice or otherwise express any indication it was not comfortable or prepared to approve the survey. To the contrary, the meeting was very amicable and agreeable. Notice and information regarding the conversion and the prior evening's resident meeting was given to all residents more than a week before the Board meeting. The date of the board meeting itself had been agreed to five days earlier.

Three days after the Board's meeting, Ms. Forbath sent to Board President Sharon McMahan a letter confirming the agreement, which she cc'd to all the other Board members. "I am pleased that we had the opportunity to review and discuss the proposed resident survey, and that **the Board was able to approve it at that time.**" Ms. Forbath confirmed (emphasis added). Her letter (which is attached to this letter as an exhibit) enclosed both the original proposed survey the Board reviewed and the final survey with the Board's required revisions. At no point did anyone call, write or otherwise suggest Ms. Forbath's confirming letter was not accurate.

In fact, at a resident meeting two weeks later, one day before all surveys were due, residents requested more time to respond to the survey. Ms. Forbath and Board President McMahan discussed and agreed to an extension of another week. The survey form itself explicitly states that the "form and conduct of the survey has been approved by the Board of Directors of the Mesa Dunes Homeowners Association." **Obviously, if Ms. McMahan believed the survey was being taken without the HOA's agreement, three weeks after receiving Ms. Forbath's letter which confirmed the HOA's agreement, and two weeks after receiving her own survey which also stated so, she would have said so at that meeting (if not far earlier), rather than agree the time to respond should be extended.**

It is obvious from a simple recounting of events and documents that the Board approved the survey and never contended otherwise. Rather, it was *you* who first made that contention, when you were hired weeks later, after the results of the survey became known.

Mr. Constantine, whether you have invented the untruths stated in your letter yourself, or are repeating untruths stated to you without making even the simplest effort to confirm their reliability, is irrelevant – either is a serious violation of your ethical obligations as an attorney.

You also seriously misrepresent the facts regarding the Board's agreement to meet with Ms. Forbath in the first place. That meeting, on June 18, 2013 was first arranged with HOA Board Vice President Jerry Schmidt. On June 13, he and Ms. Forbath agreed to schedule the meeting for the 18th. Mr. Schmidt contacted the rest of the Board to inform them of the meeting. Ms. McMahan was out of town at that time, but was present at the resident meeting held on June 17th, the day before, and she acknowledged to Ms. Forbath that she had earlier been informed of the scheduled Board meeting and confirmed the Board's willingness to meet with her.

William J. Constantine, Esq.
September 4, 2013
Page 3

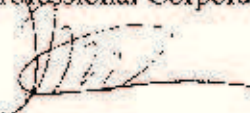
The remainder of your letter contains too many additional misrepresentations to be addressed here. Residents were not "required to attend meetings if they wanted information on the proposed conversion," as you falsely state. To the contrary, on June 10 residents received the meeting notice inviting them to "please attend" one of two meetings, a cover letter further explaining the purpose of the meetings, a separate five-pages of Common Questions and Answers about Conversion to Resident Ownership, and separate page reciting Incentives and Protections. **Clearly, every effort was made to provide residents with information about the conversion a full week before the resident meetings and the HOA Board meeting.**

Of course, given the overwhelming support shown for the conversion (the "Yeses" outnumber the "Nos" by nearly 3-to-1), it is not surprising that you feel the need to attack the survey itself. Your desire to have another survey taken, in which you want to greatly limit the responses residents may give, in the hopes that there might be a different result, will not be countenanced. For one thing, residents should have the right to respond that they have no opinion at this time, an option which you would want to deprive them of. Furthermore, I note that your proposed written "Resident Survey Balloting Agreement" essentially contains the exact survey procedures that were agreed to and complied with.

Mr. Constantine, you have opposed other park conversions we have represented and I am familiar with your typical tactic of trying to frustrate the survey process and/or deny that a legitimate survey took place. It has never worked before, nor will it this time, because we follow the law to the letter. Your misrepresentations regarding the law have been repeatedly rejected by the courts – if memory serves me correctly, you have lost every time we have faced each other in court. You repeat the same scare scenarios in an effort to convince resident groups to hire you and to continue to scare residents into thinking they need your services. It is unfortunate the HOA Board decided to hire a zealot rather than a local attorney who would fairly advise them in a balanced and even-minded manner. However, at the end of the day, the true facts will come to light and your misrepresentations will be revealed for what they are.

Sincerely,

GILCHRIST & RUTTER
Professional Corporation



Richard H. Close
Of the Firm

536590_1.DOC
5168.001
Enclosures

Attachment 7

DANNY DANIEL
765 Mesa View Dr., Sp. 304
Arroyo Grande, CA 93420

September 24, 2013

San Luis Obispo County Planning Commission
976 Osos Street, Room 300
San Luis Obispo, CA 93408

Re: Proposed conversion of Mesa Dunes Estates Manufactured Home Park

Dear Honorable Members of the San Luis Obispo County Planning Commission:

I am a member of the Mesa Dunes Homeowners' Association's (the Association) Board of Directors (the Board) and I am a resident and homeowner in Mesa Dunes Manufactured Home Park (the Park). I am writing regarding our Park owner's plan to convert the Park to a resident owned subdivision (the Conversion). I have been told that our Park owner is now claiming that our Board entered into an agreement with him, which is required by Government Code Section 66427.5(d)(2), for conducting the resident support survey ballot for the Conversion that is required by that Section. As a member of that Board, I can state that this is not true.

I have also reviewed both a letter from one of our Park owner's attorneys, Richard Close, and another letter from a Park employee and former member of our Board, Lara Castaneda, that make several factual representations that they claim demonstrate that our Board did this and I will explain why those representations are not true.

Both Mr. Close's and Ms. Castaneda's letters claim that, on June 18, 2013, our Board approved a "written ballot" to conduct a resident support survey and an agreement for conducting that balloting required by Section 66427.5(d). That is not true.

What did happen was that, on the morning of June 18, 2013, I received a telephone call from the president of our Association, Sharon McMahon, and she told me that a representative from our Park owner, Susy Forbath, was requiring our Board to meet with her later that morning to discuss paperwork regarding the conversion of our Park. We were not told what the meeting was going to be about or what we should be prepared for. Later that day, six other Board members and I attended this meeting with Ms. Forbath. However, she never showed us a "written ballot" of resident support for us to review and approve. Instead, she passed out a document entitled "Survey of Residents" and told us that it was an informational survey to determine if residents were interested in the conversion. The exact words that she use to describe it were that it was "just a formality" that did not mean anything. She specifically told us that even though its results would be reported to the County that they "did not have a say in the conversion", that it was just a formality in the process to report the results to them and that the conversion would then go to the Department of Real Estate for approval. She also gave us the impression that the Park owner was merely doing the survey to determine if enough residents were interested in the conversion in order for them to decide if they should continue to spend their time advancing it.

However, Ms. Forbath never described their proposed survey as being a "written ballot," in which the homeowners in our Park would be "voting" to support or oppose the

Attachment 7

Danny Daniel to San Luis Obispo County Planning Commission Letter

September 24, 2013

page no. 2

Conversion and she never informed us that the County would consider the results of this "survey" in making their decision to approve or reject the Conversion because she told us that they did not have a say in the matter.

Ms. Forbath also never explained to us that the choices, which we had to select from five statements under the label "SECTION I Survey," in this questionnaire - survey would be the only opportunity that we would have to approve or to stop the Conversion nor that this section of the questionnaire - survey was a "written ballot" to do so.

When Ms. Forbath gave us copies of this questionnaire - survey to review, I did not review it very carefully as she had made it clear to us that it didn't "really mean anything," that they would "only expect to get about 15% of our Park to respond to it" and that it was "just a formality."

Mr. Close's letter also states that our "Board held a "show of hands" vote on its approval of the survey." That is not an accurate description of what occurred. For us to hold a formal and binding vote of the Board to approve a resident support survey agreement, or their "survey," on behalf of our Association, Board members would have to first make a formal motion, and then a second, and it would also have had been made clear to us, by someone from our Board, that we were voting to approve that agreement required by Section 66427.5(d). None of that occurred.

Ms. Forbath did ask us for our opinions on the questions in this survey - questionnaire and one of our Board members, Dennis Farrell, stated that the disclaimer at the bottom of each page should be in larger print. She agreed to do that and then asked us, to indicate to her by a show of hands, whether or not there was anything else we wanted to change in the other questions in this survey. We responded no but we did not believe that, by responding so, we were formally voting our approval on anything that mattered since she had repeatedly told us that their survey was merely a formality that did not mean anything and we certainly were not told that we were voting to approve the "written ballot" required by Section 66427.5(d).

During this whole process, it was not explained to any of us what we were doing. We did not even know what a conversion was and had no time to investigate it. When we reviewed the survey we gave each other strange looks of disbelief since we did not have any idea what was going on or what we should be looking for. None of us was familiar with the process nor given any time to investigate the process.

I have also read the letter from a park employee, who was a member of our Board for only three months at that time. Lara Castaneda, in which she states, "During the June 18 meeting with Ms. Forbath, the Board was informed that the ballot we were being shown was only an example of such and could be changed in any way that the Board decided. The Board was not forced into choosing the ballot that was sent out." That statement is also not true. First, we were never shown a "ballot," instead, we were only shown the "Survey of Residents," which, as explained above, Ms. Forbath told us was simply a "formality that did not mean anything" and it certainly was not described to us as a "ballot." Second, although, as I stated above, Board member, Dennis Farrell, did make the one suggestion to increase the size of the text of the disclaimers, we were not told that the survey was only an "example" and that it "could be changed any way that the board decided," nor were we told that we

Attachment 7

Danny Daniel to San Luis Obispo County Planning Commission Letter

September 24, 2013

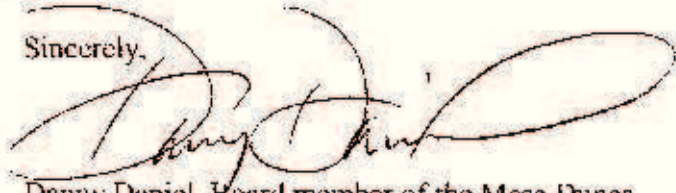
page no. 3

could decide to use another "ballot" and it was clear that we were never told that they considered this survey to be the resident support "written ballot" required by Section 66427.5(d).

I have now been informed that Government Code Section 66427.5 also requires our Park owner to enter into "an agreement between the subdivider and a resident homeowners' association" regarding conducting a resident support survey through a "written ballot" to demonstrate resident support for the Conversion and that our County would consider the results of those ballots in making their decision to approve or disapprove the Conversion. Neither Ms. Forbath nor anyone else from either her law firm or from our Park management ever showed us such "an agreement," asked us what we would want in such an agreement or asked us to vote on approving such an agreement. Instead, as I have explained above, Ms. Forbath led us into believing that we were just informally reviewing a questionnaire style survey that was merely a "formality" and would have no impact on the approval or disapproval of the Conversion. I did not learn of the true importance of their survey, or of our rights under Section 66427.5 to have a say in the wording of the "written ballots" that are required by Section 66427.5 or a say in the conduct of the balloting, until many weeks later after the survey was conducted. In fact, when I filled out and returned my survey questionnaire, I still believed it was just a "meaningless" informational questionnaire as Ms. Forbath had described it to us.

Ms. Castaneda's letter also states that "At the end of the meeting, the Board began to hand Ms. Forbath back the sample surveys at which time she offered to let any Board member keep their copy of the sample survey. Ms. McMahan was never denied her right to keep her copy, she simply chose not to." That statement is also not true. The truth is that at the end of the meeting, Ms. Forbath started collecting the Surveys from us and I then heard Sharon McMahon ask her if she could keep her copy of it so we could look it over more carefully. At that time, I distinctly remember then also hearing Ms. Forbath respond that Sharon could not keep it, that we all had to hand on her surveys back to her and we would receive them later, when they were mailed out.

Sincerely,

A handwritten signature in black ink, appearing to read 'Danny Daniel', with a large, sweeping loop at the end.

Danny Daniel, Board member of the Mesa Dunes
Homeowners' Association's Board of Directors

DENNIS FARRELL
765 Mesa View Drive, Space 258
Arroyo Grande, CA 93420
September 27, 2013

San Luis Obispo County Planning Commission
976 Osos Street, Room 300
San Luis Obispo, CA 93408

Re: Proposed Conversion of Mesa Dunes Estates Manufactured Home Park

Dear Honorable Members of the San Luis Obispo County Planning Commission:

I am a member of the Mesa Dunes Homeowners' Association's (the HOA) Board of Directors (the Board) and a resident and homeowner in Mesa Dunes Manufactured Home Park (the Park). I am writing regarding our Park owner's plan to convert the Park to a resident owned subdivision (the Conversion). Mr. Will Constantine, an attorney for the HOA has informed me that our Park owner is now claiming that our HOA Board entered into an agreement with him, which is required by Government Code Section 66427.5(d)(2), for conducting the resident support survey ballot for the Conversion that is required by that Section. As a member of the Board, I can state that the above agreement was not officially entered into with the Park owner by the Board.

I have reviewed letters from Mr. Richard Close, one of the Park owner's attorneys, and another letter from Ms. Lara Castaneda, a former Board member and Park employee. Both of the above letters make several factual representations that they claim demonstrate that our Board entered into an agreement and I will explain why those representations are not true.

Both Mr. Close's and Ms. Castaneda's letters claim that on June 18, 2013, our Board approved a "written ballot" of resident support and an agreement for conducting balloting required by Section 6427.5(d). These additional claim's are not true. What actually occurred was that, on June 18, 2013, six other Board members and I attended a meeting with Ms. Forbath. However, Ms. Forbath never showed us a "written ballot" of resident support for us to review and approve. Instead, Ms. Forbath distributed a document entitled "Survey of Residents" and told the HOA Board members present at this meeting that "As a law firm hired by the Park owners, we are required by law to set this up and give it to people in your park." She stated that this survey is merely a "formality" and only an initial step before filing the Conversion application with the County. I asked Ms. Forbath what percentage of the total surveyed residents typically complete and return these surveys and her reply was that approximately 15% of the Park residents usually take the time to reply and return the survey. I further suggested that the HOA Board could assist park residents who might require reminding or some other

Dennis Farrell to San Luis Obispo County Planning Commission Letter
September 27, 2013
Page no. 2

accommodation to complete and return surveys in the time period provided as this small percentage may not be a reflection of the majority of the park resident's wishes. Since Ms. Forbath never described the survey she distributed as being a "written ballot," in which the homeowners in our Park would be "voting" to support or oppose the Conversion, neither the Board members nor Ms. Forbath took my accommodation question very seriously. I requested additional information from Ms. Forbath as to how the County planned to use these surveys, if at all, and she explained that individual surveys rarely if ever are requested by members of County Planning and that information about the data is usually provided in summary form.

Ms. Forbath did not explain to us that the five statements offered under "SECTION I Survey," in this survey-questionnaire would be the only opportunity that residents would have to approve or to stop the Conversion nor that this section of the survey was this attorney firm's version of a "written ballot". When Ms. Forbath distributed copies of this survey-questionnaire for our review, I looked over the wording and form without more than a cursory examination not realizing the full legal and financial ramifications of this document.

Mr. Close's letter also states that our Board held a "show of hands" vote in approving the survey-questionnaire. Although the members present made a show of hands, I understood this was based on a review of an interest-seeking document used by the owners as a preliminary information tool.

For the Board to officially hold a vote to approve a resident support survey agreement, or their "survey-questionnaire," the Board members would first require a knowledgeable review and discussion from an informed and trusted source. Following that review and discussion, if no further questions or concerns were voiced, a formal motion and second to approve or disapprove would occur. No trusted source from our Board or elsewhere informed us that we were voting to approve such an agreement required by Section 66427.5(d).

Ms. Forbath requested the group's opinion on the questions in this survey-questionnaire and I stated that the disclaimer at the bottom of each page should be in larger print. She agreed to make that revision and then asked by a show of hands whether there was anything else that we wanted to change in the other questions within this survey-questionnaire. The Board responded that no other changes appeared necessary but I did not believe that, by responding so, I was formally voting my approval of a "written ballot" required by Section 66427.5(d).

Dennis Farrell to San Luis Obispo County Planning Commission Letter

September 27, 2013

Page no. 3

Mr. Close's letter also states that Ms. Forbath asked our Board if the necessary quorum was present for our "show of hands" vote and that we had told her that it was. After looking around to see the number of Board members present, I recall looking at our Board President, Sharon McMahan, and asking if we had a quorum to which she replied that she still had some concerns about this survey-questionnaire. However, the ensuing show of hands did occur although the Board was unaware at that time of the implications a show of hands would signify. In the letter from park employee, Ms. Lara Castaneda, who was a recent Board member for three months, Lara stated that "During the June eighteenth meeting with Ms. Forbath, the Board was informed that the ballot we were shown was only an example and could be changed in any way that the Board decided. The Board was not forced into choosing the ballot that was sent out." That statement is only partly true. First, we were never shown a "ballot," instead, we were only shown the "Survey of Residents," which, as explained above, Ms. Forbath told us was simply a "formality". Second, although a small revision was made in the document when I suggested a larger font size of the disclaimers at the bottom of the page, the Board members were not told that the survey actually represented the resident support "written ballot" required by Section 66427.5(d). I, along with the rest of the HOA Board, have now been informed by Will Constantine, the HOA Board's attorney, that Government Code Section 66427.5 also requires a Park owner to enter into "an agreement between the sub-divider and a resident HOA" regarding conducting a resident support survey through a "written ballot" to demonstrate resident support for the Conversion and that our County would consider the results of those ballots in making their decision to approve or disapprove the Conversion. Neither Ms. Forbath nor anyone else from the law firm she represents or from our Park management ever showed the HOA Board such "an agreement," asked us what we would want in such an agreement or allowed us to approve by voting on such an agreement. Instead, as explained above, Ms. Forbath led the HOA Board into believing that we were reviewing a survey-questionnaire that was merely a "formality" and had no direct impact on the approval or disapproval of the Conversion. It was only after the survey-questionnaire was conducted and following the HOA Board's decision to hire Will Constantine as our attorney that I learned of the importance of their "survey-questionnaire" and our rights under Section 66427.5 to make an informed decision as to the wording of the "written ballots" and a voice in the conduct of the balloting. In fact, upon completing and returning my survey questionnaire, I still believed it to be a preliminary informational questionnaire and a "mere formality" as often described by Ms. Forbath.

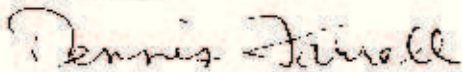
Dennis Farrell to San Luis Obispo County Planning Commission Letter

September 27, 2013

Page no. 4

Ms. Castaneda's letter also stated "At the end of the meeting, the Board began to hand Ms. Forbath back the sample survey-questionnaire at which time she offered to let any Board member keep their copy of the sample survey including Ms. McMahan who was never denied her right to keep her copy, she simply chose not to." That statement is not true. At the end of the meeting, when Ms. Forbath started collecting the surveys from us, I heard Sharon McMahon ask her if she could keep her copy so she "could look it over more carefully". At that time, I distinctly recall seeing Ms. Forbath look over to Mr. Richard Close, introduced earlier as her boss, for his input on Sharon's request, and he shook his head indicating "no". Ms. Forbath then requested that Sharon turn in her survey promising to send her a revised copy.

Sincerely,



Dennis Farrell, Member of the Mesa
Dunes Homeowners' Association's Board of Directors

Attachment 7
GAIL MAGGIO
765 Mesa View Dr., Sp. 277
Arroyo Grande, CA 934200

September 30, 2013

San Luis Obispo County Planning Commission
976 Osos Street, Room 300
San Luis Obispo, CA 93408

Re: Proposed conversion of Mesa Dunes Estates Manufactured Home Park

Dear Honorable Members of the San Luis Obispo County Planning Commission:

I am a member of the Mesa Dunes Homeowners' Association's (the Association) Board of Directors (the Board) and I am a resident and homeowner in Mesa Dunes Manufactured Home Park (the Park). I am writing regarding our Park owner's plan to convert the Park to a resident owned subdivision (the Conversion). I have been told that our Park owner is now claiming that our Board entered into an agreement with him, which is required by Government Code Section 66427.5(d)(2), for conducting the resident support survey ballot for the Conversion that is required by that Section. As a member of that Board, I can state that this is not true.

I have also reviewed both a letter from one of our Park owner's attorneys, Richard Close, and another letter from a Park employee and former member of our Board, Lara Castaneda, that make several factual representations that they claim demonstrate that our Board did this and I will explain why those representations are also not true.

Both Mr. Close's and Ms. Castaneda's letters claim that, on June 18, 2013, our Board approved a "written ballot" to conduct a resident support survey and an agreement for conducting that balloting required by Section 66427.5(d). This is not true.

What did happen was that at a meeting that our Park owner called to promote the conversion, I was sitting down in the isle near our Association's president, Sharon McMahan, and I observed of our Park owner's legal representatives, Susy Forbath, inform her that she wanted our Board to meet with her to review a survey regarding the conversion. This occurred on June 17, 2013 and was the first time that I was informed that our Park owner would be conducting a survey. Sharon told Ms. Forbath that she could come to our scheduled Board meeting, scheduled to occur on July 9th., for us to review the survey. Ms. Forbath responded that she could not wait that long and that our Board had to meet with her the next morning, at 10 A.M., because she did not want to come back up for our Board meeting and that survey had to go out right away. Ms. Forbath gave us no choice on the timing of this meeting so Sharon told her that she would try to get as many Board members as possible to meet with her on the next day.

On June 18, 2013, six other Board members and I attended this meeting with Ms. Forbath. However, she never showed us a "written ballot" of resident support for us to review and approve. Instead, she passed out a document entitled "Survey of Residents" and told us that "this survey is something that is required by the state, that it is just a formality and that it did not mean anything." She told us that "no one would probably see the individual surveys, that "just totals would be reported" and that people "could respond if they

wanted as it was not expected that everyone would send it in" and that they usually get a very low response rate to the survey. She then told us that the reason for the second page of the survey was to use it to determine "if people needed financial assistance," so they would know "where to put the available financial assistance" and "who needed to be helped out." She repeatedly downplayed the survey's importance and told us that it was just something that had to be done so the process can move forward and that they would just use the information to try to help us out.

However, Ms. Forbath never described their survey as being a "written ballot," in which the homeowners in our Park would be "voting" to support or oppose the Conversion and she never informed us that the County would consider the results of this "survey" in making their decision to approve or reject the Conversion and she told us that the County did not have a real say in the conversion.

Ms. Forbath also never explained to us that the choices, which we had to select from five statements under the label "SECTION I Survey" in this questionnaire - survey would be the only opportunity that we would have to approve or to stop the Conversion nor that this section of the questionnaire - survey was a "written ballot" to do so.

When Ms. Forbath gave us copies of this questionnaire - survey to review, I did not review it very carefully as she had made it clear to us that it didn't "really mean anything," and that it was "just a formality."

Mr. Close's letter also states that our Board held a "show of hands" vote on its approval of the survey. That is not an accurate description of what occurred. For us to hold a formal and binding vote of the Board to approve a resident support survey agreement, or their "survey," on behalf of our Association, a Board member would have to first make a formal motion, and then another member would have had to second it and it would also have had been made clear to us, by someone from our Board, that we were voting to approve that agreement required by Section 66427.5(d). None of that occurred.

Ms. Forbath did ask us for our opinions on the questions in this survey questionnaire and one of our Board members, Dennis Farrell, stated that the disclaimer at the bottom of each page should be in larger print. She agreed to do that and then asked, to indicate to her by a show of hands, whether or not there was anything else we wanted to change in the other questions in this survey. We responded no but we did not believe that, by responding so, we were formally voting our approval on anything that mattered since she had repeatedly told us that their survey was merely a formality that did not mean anything and we certainly were not told that we were voting to approve the "written ballot" required by Section 66427.5(d).

During this whole process, it was not explained to any of us what we were doing. We did not even know what a conversion was and had no time to investigate it. When we reviewed the survey, we gave each other looks of disbelief since we did not have any idea what was going on or what we should be looking for. None of us were familiar with the process nor given any time to investigate the process. I felt that we should have been able to take the survey home, have a meeting with the board members and discuss the survey, see if this was a good survey and if not why. We could have done this immediately after our meeting with Ms. Forbath and then given the results the next day. If this would have happened we would not be having the problem we are having now.

I have also read the letter from a park employee, who was a member of our Board for only three months at that time, Lara Castaneda, in which she states: "During the June 18 meeting with Ms. Forbath, the Board was informed that the ballot we were being shown was

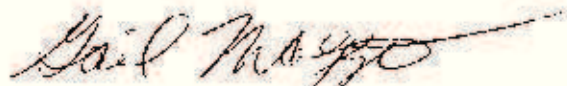
Attachment 7

only an example of such and could be changed in any way that the Board decided. The Board was not forced into choosing the ballot that was sent out." This statement is also not true. First, we were never shown a "ballot," instead, we were only shown the "Survey of Residents," which, as I explained above, Ms. Forbath told us was simply a "formality that did not mean anything" and it certainly was not described to us as a "ballot." Second, although, as I stated above, Board member, Dennis Farrell, did make the one suggestion to increase the size of the text of the disclaimers, we were not told that the survey was only an "example" and that it "could be changed any way that our Board decided," nor were we told that we could decide to use another "ballot." It is particularly clear in my memory that we were never told that they considered this survey to be the resident support "written ballot" required by Section 66427.5(d).

I have now been informed that Government Code Section 66427.5 also requires our Park owner to enter into "an agreement between the subdivider and a resident homeowners' association" regarding conducting a resident support survey through a "written ballot" to demonstrate resident support for the Conversion and that our County would consider the results of those ballots in making their decision to approve or disapprove the Conversion. Neither Ms. Forbath nor anyone else from either her law firm or from our Park management ever showed us such "an agreement," asked us what we would want in such an agreement or asked us to vote on approving such an agreement. Instead, as I have explained above, Ms. Forbath led us into believing that we were just informally reviewing a questionnaire style survey that was merely a "formality" and would have no impact on the approval or disapproval of the Conversion. I did not learn of the true importance of their survey, or of our rights under Section 66427.5 to have a say in the wording of the "written ballots" that are required by Section 66427.5 or a say in the conduct of the balloting, until many weeks after the survey was actually conducted. In fact, when I filled out and returned my survey questionnaire, I still believed it was just a "meaningless" informational questionnaire as Ms. Forbath had described it to us.

Ms. Castaneda's letter also states that "At the end of the meeting, the Board began to hand Ms. Forbath back the sample surveys at which time she offered to let any Board member keep their copy of the sample survey. Ms. McMahan was never denied her right to keep her copy, she simply chose not to." This statement is also entirely false. The truth is that at the end of the meeting, Ms. Forbath started collecting the surveys from us and I the heard Sharon McMahon ask her if she could keep her copy of it so we could look it over more carefully. At that time, I distinctly remember hearing Ms. Forbath tell Sharon that she could not keep it because they had to be returned to be completed and we would all receive them later when they were mailed out.

Sincerely,



Gail Maggio, Board member of the Mesa Dunes Homeowners' Association's Board of Directors

Attachment 7

Sharon McMahan
765 Mesa Dr., Sp. 21
Arroyo Grande, CA 93420

August 28, 2013

Ted Bench, Planner III
San Luis Obispo County Planning Dept.
976 Osos Street, Room 300
San Luis Obispo, CA 93408

Re: Proposed conversion of Mesa Dunes Estates Manufactured Home Park

Dear Mr. Bench:

I am the president of the Mesa Dunes Homeowners' Association (the Association) and I am writing regarding the proposed conversion of Mesa Dunes Manufactured Home Park (the Park). On June 24, 2013, our Park owner's representatives distributed a "Survey of Residents" questionnaire under a cover letter that stated that the form and content of that survey has been approved by the Board of Directors of the Association. That statement is simply not true. Our Association did not approve of the form and content of that survey and the Park owner never obtained an agreement with us, governing that survey, as is required by Government Code Section 66427.5(d)(2).

On June 10, 2013, we received a notice that our Park owner's representatives would be conducting two meetings on June 17, 2013 regarding a plan that our Park owner had to convert the Park to resident ownership. It told us nothing about the required resident support survey or the agreement that they were required to obtain from us to conduct that survey.

On June 17, 2013, I, most of our Board of Directors, and many of the residents of the Park attended those two meetings and I actually attended both of them. At those meetings, one of the representatives, Susy Forbath, from the law firm, Gilchrist and Rutter, representing the Park owner in this conversion told us that we would be immediately receiving their "Survey of Residents" in another seven days (*i.e., on the following Monday, June 24, 2013*) and that she would be meeting with our Association's Board the next day (*on June 18, 2013*) to explain the Survey to them. She made this statement even though she had never contacted us about the survey and we knew nothing about it. In fact, our Association's Board had not agreed to meet with her, we had no advanced knowledge that the Park owner would be conducting the survey or its contents, we had not been told of the requirement under Section 66427.5(d)(2) that it had to be conducted under an agreement with us and we had not been told that the law required the Park owner to obtain a survey of resident support, through a written ballot, demonstrating our residents' support for the conversion.

During those meetings, Ms Forbath then told us that the survey "doesn't mean anything" and that it was "just a formality required by state law."

Near the end of those meetings, Ms. Forbath approached me, and, for the first time, told me that our Board was required to meet with her on the very next day (*on June 18, 2013*) if we wanted to see the survey form that her firm would be sending out on June 24, 2013. I objected to

Attachment 7

her that we needed more time to properly call a Board meeting, to study the issue of the conversion and to obtain legal advice. Ms. Forbath responded by telling me that we had to meet with her the next day because she "did not want to make another trip to Arroyo Grande" and that she "could not wait because the Park owner had to get this part of the conversion process completed immediately."

At her June 18, 2013 - meeting with us, Ms. Forbath distributed a sample of the "Survey of Residents," to us, which her law firm prepared without first obtaining our approval. In fact, this was the first time that we had even seen their survey and, as I stated above, the night before was the first time we had ever even heard about this survey and we still knew nothing about it or about our rights in relation to it.

Ms. Forbath then told us that it was the survey form that would be sent out in six days on the following Monday, June 24, 2013 and she did not inform us that the Park owner was first required to obtain an agreement from us, which would control both the contents of the support survey ballots and the procedures for conducting the balloting, and that we had the right to be advised by legal counsel and to negotiate the entire contents of the survey ballot and the procedures for conducting it.

At this June 18, 2013 meeting, Ms. Forbath also did not tell us that this was a survey of resident support that was required to be conducted by a "written ballot" and that its results would decide whether or not the proposed conversion of our Park would be approved or rejected by our County. In that regard, we still believed that the survey was a mere formality that did not mean anything because that is what she told us the night before.

At that meeting, one Board member did complain that the text of a "disclaimer paragraph" located on the bottom of both of the pages of the Survey was too small for any of our senior citizen members to read and Ms. Forbath replied that she would make it larger without also informing us that Section 66427.5(d)(2) actually required the Park owner to get our approval for the entire survey ballot form.

After this meeting, I tried to keep the sample copy of the survey form so I could review it further and Ms. Forbath took it from me, told me that I could not keep it and then told me that another copy of the sample survey would be sent to me later. We then did not receive that sample copy of the survey form until June 21, 2013, which was only three days before the Park owner started the balloting on June 24, 2013.

On June 24, 2013, all of the residents of our Park received the "Survey of Residents" with a cover letter that falsely claimed that the "form and conduct of the survey has been approved by the Board of Directors of the Mesa Dunes Homeowners Association," when, as I have described above, we clearly had not approved it nor entered into the required agreement regarding it.

Sincerely,

Sharon McMahan

Sharon McMahan, President of the
Mesa Dunes Homeowners Association

Attachment 7
GERALD SCHMIDT
67 LAPLAYA WAY
ATWATER, CA 95301

October 2, 2013

San Luis Obispo County Planning Commission
976 Osos Street, Room 300
San Luis Obispo, CA 93408

Re: Proposed conversion of Mesa Dunes Estates Manufactured Home Park

Dear Honorable Members of the San Luis Obispo County Planning Commission:

I was a member of the Mesa Dunes Homeowners' Association's (the Association) Board of Directors (the Board) until the end of this August when I resigned since I then moved out of Mesa Dunes Manufactured Home Park (the Park). I am writing regarding our Park owner's plan to convert the Park to a resident owned subdivision (the Conversion). I have been told that our Park owner is now claiming that our Board entered into an agreement with him, which is required by Government Code Section 66427.5(d)(2), for conducting the resident support survey ballot for the Conversion that is required by that Section. As a member of that Board at that time, I can state that this is not true.

I also have reviewed both a letter from one of our Park owner's attorneys, Richard Close, and another letter from a Park employee and former member of our Board, Lara Castaneda, that make several factual representations that they claim demonstrate that our Board did this and I will explain why those representations are not true.

To begin with, Mr. Close's letter claims that, on June 13, 2013, a representative from his law firm, Ms. Forbath, and I "agreed to schedule the meeting for the 18th" (of June 2013) for our Board to review a "survey of residents," which our Park owner wanted to conduct in the Park, and that I then contacted the rest of the Board to arrange for that meeting. That is not true. I did speak with Ms. Forbath on June 13th but I did not agree with her on that date, or at any time prior to June 17, 2013, to schedule a meeting for the 18th. Instead, on June 13, 2013, I only received a telephone call from Ms. Forbath and she told me that she wanted to meet with me on June 18th. I do not believe that she even informed me, at that time, of what she wanted to meet with me about and I know she did not tell me that she wanted to meet so we could review a resident support survey or a ballot. Although she did not ask me to set up the meeting for our Board, I assumed that was what she wanted so, on June 16, 2013, when our Association's president, Sharon McMahan, returned from a trip that she was on, I told her about the request. So I certainly did not "agree to schedule the meeting for the 18th" with Ms. Forbath, on June 13, 2013, for our Board to discuss the survey or ballot with her. I also did not then arrange for Board members to attend the meeting at that time.

The truth is that I was not informed by Ms. Forbath that the meeting was to be about the survey until an informational meeting on the Conversion, which her law firm conducted at the Park on June 17, 2013. At that time, she told me that "We will be meeting with you tomorrow

Attachment 7

Gerald Schmidt to San Luis Obispo County Planning Commission Letter

October 2, 2013

page no. 2

regarding a resident survey.” Our Association’s president, Sharon McMahan, was sitting nearby observing our conversation and then responded to Ms. Forbath that we could meet with her at our next board meeting on July 9th but that we could not schedule a separate meeting for the next day as we were not prepared to meet with her and our Board’s rules required us to give our Board members at least 24 hours notice of such a special meeting. Ms. Forbath responded with a firm “No” that they were not willing to give us any more time since they had to meet with us “immediately” on the next day. By doing this, Ms. Forbath mislead us into believing that we had no choice so as we told her that we would try to get as many Board members as we could to meet with her on the next day.

Both Mr. Close’s and Ms. Castaneda’s letters claim that, on June 18, 2013, our Board approved a “written ballot” of resident support and an agreement for conducting that balloting required by Section 6427.5(d). That is not true. What did happen was that on June 18, 2013, six other Board members and I then attended a meeting with Ms. Forbath and with Mr. Close. She passed out a document entitled “Survey of Residents” and told us that “As a law firm, we have to set this up and give it to people in your park. It is merely a formality and it doesn’t mean anything and we rarely get more than 15% of the Park responding to it but we are required to do it before filing our conversion application with your County.” She never described it as being a “written ballot,” in which the homeowners in our Park would be “voting” to support or oppose the Conversion and she never informed us that the County would consider the results of this balloting in making their decision to approve or reject the Conversion.

Ms. Forbath also never explained to us that the choices, which we had to select from five statements, under the label “SECTION I Survey,” in this questionnaire would be the only opportunity that we would have to approve or to stop the Conversion nor that this section of the questionnaire - survey was a “written ballot” to do so.

When Ms. Forbath gave us copies of this questionnaire to review, I did not review it very carefully as she had made it clear to us that it didn’t “really mean anything,” that they would “only expect to get about 15% of our Park to respond to it” and that it was “just a formality.” In fact she had told us this twice, both at our June 18th Board meeting with her and at the June 17th informational meeting for all of our Park’s residents.

Mr. Close’s letter also states that our “Board held a “show of hands” vote on its approval of the survey.” That is not true. For us to hold a vote of the Board to approve a resident support survey agreement, or their “survey,” on behalf of our Association, Board members would have to first make a formal motion, and then a second, and it would also have had been made clear to us, by someone from our Board, that we were voting to approve that agreement required by Section 66427.5(d). None of this occurred. I also was never asked to “vote” on approving their questionnaire - survey, I did not raise my hand to either vote for it or to show my approval of it and I do not even remember anyone else on the Board doing so or even being told that we were being asked to vote on approving it.

Mr. Close’s letter also states that Ms. Forbath asked our Board if the necessary quorum was present for our “show of hands” vote and that we had told her that it was. I also never told her that and I don’t remember anyone else on the Board telling her that. We did offer some comments about their questionnaire - survey but it never was explained to us that we were actually “voting” our approval of it by doing so.

Attachment 7

Gerald Schmidt to San Luis Obispo County Planning Commission Letter

October 2, 2013

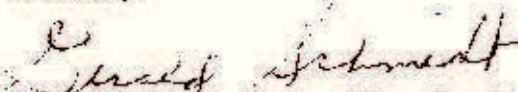
page no. 3

I have also read a letter from a park employee, who was a member of our Board for only three months at that time, Lara Castaneda, in which she states: "During the June 18 meeting with Ms. Forbath, the Board was informed that the ballot we were being shown was only an example of such and could be changed in any way that the Board decided. The Board was not forced into choosing the ballot that was sent out." That statement is also simply not true. First, we were never shown a "ballot," instead, we were only shown the "Survey of Residents," which, as explained above, Ms. Forbath told us was simply a "formality that did not mean anything" and it certainly was not described to us as a "ballot." Second, although I do remember one of our members making one suggestion about that survey, we were not told that their proposed survey was only an "example" and that it "could be changed any way that the board decided," nor were we told that we could decide to use "another ballot." It is also very clear in my memory that their survey was never described to us as being "a ballot."

I have now been informed that Government Code Section 66427.5 also requires our Park owner to enter into "an agreement between the subdivider and a resident homeowners' association" regarding conducting a resident support survey through a "written ballot" to demonstrate resident support for the Conversion and that our County would consider the results of those ballots in making their decision to approve or disapprove the Conversion. Neither Ms. Forbath nor anyone else from either her law firm or from our Park management ever showed us such "an agreement," asked us what we would want in such an agreement or asked us to vote on approving such an agreement. Instead, as I have explained above, Ms. Forbath led us into believing that we were just informally reviewing a questionnaire style survey that was merely a "formality" and would have no impact on the approval or disapproval of the Conversion. I did not learn of the true importance of their survey, or of our rights under Section 66427.5 to have a say in the wording of the "ballots" that are required by Section 66427.5 or a say in the conduct of the balloting, until many weeks later after the survey was conducted. In fact, when I filled out and returned my survey questionnaire, I still believed it was just a "meaningless" informational questionnaire as Ms. Forbath had described it to us.

Ms. Castaneda's letter also states that "At the end of the meeting, the Board began to hand Ms. Forbath back the sample surveys at which time she offered to let any Board member keep their copy of the sample survey. Ms. McMahan was never denied her right to keep her copy, she simply chose not to." That statement is also not true. At the end of the meeting, Ms. Forbath started collecting the Surveys from us and I heard Sharon McMahon ask her if she could keep her copy of it so we could look it over more carefully. I then heard Ms. Forbath respond "No, that she should not keep her copy" of the survey, that she had to return it and that she would mail her a copy later if she wanted.

Sincerely,



Gerald Schmidt, former Vice -President and former Board member of the Mesa Dunes Homeowners' Association's Board of Directors